

REMARKS

Claims 1-18 are pending in the application. Claim 6 is hereby amended to remove language from the preamble and to clarify antecedent basis issues within the body of the claim. The Examiner has imposed a restriction requirement in this case. In particular, the Examiner states:

"Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-6, drawn to a method for enabling a plurality of audit time ... deploying said respective copies of said computer program, classified in class 705, subclass 30.
- II. Claims 7-11, drawn to an interactive computer program, classified in class 707, subclass 102.
- III. Claims 12-18, drawn to a digital storage media, classified in class 725, subclass 40."

(Paper No. 5, pg. 2, bullet 1).

Applicant provisionally elects to prosecute Group I (including claims 1-6). This provisional election is made with traverse. That is, Applicant respectfully disagrees with the Examiner's proposed restriction. Applicant requests reconsideration of the restriction requirement in light of the following arguments, and pursuant to 37 CFR §1.143. Applicant has amended claim 6 to ensure that, should the Examiner maintain his restriction, claim 6 is treated in Group I (and that either claim 1 or claim 6 is generic).

Applicant respectfully suggests that the Examiner has not established a proper case for restriction. The Examiner asserts that Groups I, II and III are "related as combination and subcombination", that "the combination as claimed does not require the particulars of the subcombination as claimed because no output module is required" and that the "subcombination has separate utility such as generating point-of-sale inventory values." (Paper No. 5, page 2). The Examiner further states that each of the Groups "have acquired a separate status in the art as shown by their different classification".

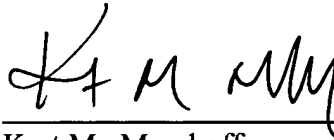
Applicant respectfully suggests that this ground of restriction is improper for at least two reasons. First, Applicant respectfully suggests that for restriction of combination and subcombination claims to be proper, "both two-way distinctiveness and reasons for insisting on restriction are necessary." (See MPEP 806.05(c)). Here, the Examiner has not provided any two-way distinctiveness. Instead, he notes that the combination is different than the subcombination because no output module is required (although Applicant notes that claims in both Groups II and III include the "output module"). It is unclear how the claims of Group II and the claims of Group III could be considered subcombinations of the other using the difference alleged by the Examiner as they both include an "output module". Further, the Examiner has not provided any allegation of two-way distinctiveness between the claims which recite the "output module" (Groups II and III) and the claims which do not (Group I). Just because two claims are different does not mean they are combinations or subcombinations. As such, Applicant respectfully asserts that a proper prima facie requirement for restriction has not been established.

As a second matter, Applicant respectfully asserts that the alleged "separate status in the art" is improper. The Examiner states that the claims of Groups I, II and III should be classified in classes 705/30, 707/102 and 725/40, respectively. Applicant respectfully asserts that at least the last two classifications are inaccurate. For example, Applicants respectfully suggest that the claims of Group II (claims 7-11, per the Examiner, "drawn to an interactive computer program") and the claims of Group III (claims 12-18, per the Examiner, "drawn to a digital storage media") should appropriately be classified (and searched) in class 705 for "apparatus and corresponding methods for performing data processing operations, in which there is a significant change in the data or for performing calculation operations wherein the apparatus or method is uniquely designed for or utilized in the practice, administration, or management of an enterprise, or in the processing of financial data") (See Manual of Patent Classification, Class 705, Section I – Class Definition). Applicant respectfully asserts that each of the Groups may be searched using the same field of search because they are properly classified together. As such, no additional search burden is imposed on the Examiner and restriction in this case is inappropriate.

In view of the foregoing, Applicant respectfully requests that the restriction requirement be withdrawn upon reconsideration. All claims currently remain in the case and are believed patentable. Applicant respectfully requests allowance of the pending claims. Applicant's silence with respect to other comments made in the Office Action does not imply agreement with those comments.

If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned.

Respectfully submitted,



September 29, 2003

Date

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